

New claim 29 has been drafted to better distinguish the present invention from the prior art references of record. New claim 29 recites a cannula for receiving surgical instruments for performing a surgical procedure on a body. The cannula comprises a tube structure having an outer surface for engaging the body and an inner surface. The inner surface defines a passage extending through the tube structure and through which the surgical instruments are inserted into the body. The tube structure has a proximal end and a distal end. The passage has a first cross-sectional area between the proximal end and the distal end. The tube structure includes an expandable portion for enabling an increase in the cross-sectional area of the passage at the distal end of the tube structure to a second cross-sectional area which is greater than the first cross-sectional area.

It is respectfully submitted that none of the prior art references of record teaches or discloses the structure recited in claim 29. Specifically, the prior art references of record do not teach or disclose a tube structure having an outer surface for engaging the body and a passage extending through the tube structure and through which the surgical instruments are inserted into the body, wherein an expandable portion at a distal end of the tube structure enables the cross-sectional area of the passage at the distal end to increase from a first cross-sectional area to a larger second cross-sectional area.

The '949 patent to Bonutti discloses several embodiments of a retractor comprising a cannula into which a fluid channel

having an inflatable end portion is inserted. Surgical instruments may be inserted into the body through the fluid channel. In none of the disclosed embodiments, however, is there a tube structure having (a) an outer surface engaging the body, (b) an inner passage through which surgical instruments are inserted into the body, and (c) an end portion of the tube structure which is expandable to a larger cross-sectional area than the rest of the passage, as is recited in claim 29. Hence, it is respectfully submitted that claim 29 is not anticipated by the '949 patent.

The '971 patent to Bonutti also discloses several retractor embodiments. Each of the embodiments has a tube with a constant diameter, and thus constant cross-sectional area, passage through which surgical instruments are inserted into the body. A sleeve surrounds the tube and has an expandable portion. In none of the disclosed embodiments, however, is there a tube structure having (a) an outer surface engaging the body, (b) an inner passage through which surgical instruments are inserted into the body, and (c) an end portion of the tube structure which is expandable to a larger cross-sectional area than the rest of the passage, as is recited in claim 29. Hence, it is respectfully submitted that claim 29 is not anticipated by the '971 patent.

Accordingly, it is respectfully submitted that new claim 29 defines over the prior art references and is therefore allowable.

It is further respectfully submitted that claims 2 and 4-8, which depend either directly or indirectly from claim 29,

are allowable for at least the reasons claim 29 is allowable and for the specific limitations recited therein.

New claim 30 has also been drafted to better distinguish the present invention from the prior art references of record. Claim 30 recites a cannula for receiving surgical instruments comprising a first tubular portion having a first outer surface for engaging the body and a first inner surface defining a first passage for receiving the surgical instruments. The first passage has a first diameter. The first tubular portion has a proximal end and a distal end. A second tubular portion is attached to the distal end of the first tubular portion. The second tubular portion has a second outer surface for engaging the body and a second inner surface defining a second passage for receiving the surgical instruments. The second passage is a continuation of the first passage. The second tubular portion is diametrically expandable to enable enlargement of the second passage to a size which is greater than the first diameter of the first passage.

It is respectfully submitted that none of the prior art references of record teaches or discloses the structure recited in claim 30. Specifically, the prior art references of record do not teach or disclose a second tubular portion attached to the distal end of a first tubular portion and defining a second passage which is a continuation of a first passage through the first tubular portion for receiving surgical instruments, wherein the second tubular portion is diametrically expandable to enable enlargement of the second

passage to a size which is greater than the first diameter of the first passage.

The '949 patent to Bonutti discloses several embodiments of a retractor comprising a cannula into which a fluid channel having an inflatable end portion is inserted. Surgical instruments may be inserted into the body through the fluid channel. In none of the disclosed embodiments, however, is there a second tubular portion attached to the distal end of a first tubular portion and defining a second passage which is a continuation of a first passage through the first tubular portion for receiving surgical instruments, wherein the second tubular portion is diametrically expandable to enable enlargement of the second passage to a size which is greater than the first diameter of the first passage, as is recited in claim 30. Hence, it is respectfully submitted that claim 30 is not anticipated by the '949 patent.

The '971 patent to Bonutti also discloses several retractor embodiments. Each of the embodiments has a tube with a constant diameter, and thus constant cross-sectional area, passage through which surgical instruments are inserted into the body. A sleeve surrounds the tube and has an expandable portion. In none of the disclosed embodiments, however, is there a second tubular portion attached to the distal end of a first tubular portion and defining a second passage which is a continuation of a first passage through the first tubular portion for receiving surgical instruments, wherein the second tubular portion is diametrically expandable to enable enlargement of the second passage to a size which is

greater than the first diameter of the first passage, as is recited in claim 30. Hence, it is respectfully submitted that claim 30 is not anticipated by the '971 patent.

Accordingly, it is respectfully submitted that new claim 30 defines over the prior art references and is therefore allowable.

It is further submitted that claims 11, 12, 14, 17, 18 and 20-22, which depend either directly or indirectly from claim 30, are allowable for at least the reasons claim 30 is allowable and for the specific limitations recited therein.

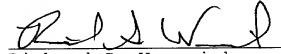
The present amendment was not earlier presented because it was felt that the claims and arguments submitted in the response of June 21, 1999 overcame the rejections of the claims. It is respectfully submitted that the present amendment does not raise any new issues, nor does it require further searching on the part of the Examiner. The present amendment is necessary to present new claims which are allowable over the cited prior art, and is therefore believed to be appropriate.

In view of the foregoing, it is respectfully submitted that the above-identified application is in condition for allowance, and allowance of the above-identified application is respectfully requested.

Please charge any deficiency or credit any overpayment in  
the fees for this amendment to our Deposit Account

No. 20-0090.

Respectfully submitted,



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